

Remarks

The Office Action fails to present any evidence related to the telephony-based aspects of the claimed invention and the alleged motivation for modifying the Hamlin reference is unsupported and contradicted by the incompatibility of the cited teachings. Applicant respectfully submits that the claimed invention is allowable.

The non-final Office Action dated December 15, 2005, indicated that claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70 and 74 stand rejected under 35 U.S.C. § 103(a) over Hamlin (U.S. Patent No. 5,574,964) in view of Ellis *et al.* (U.S. Patent Publication No. 2005/0251827); claims 20 and 50 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis *et al.* and further in view of Goldstein (U.S. Patent No. 5,410,326); claims 7, 22, 29, 31, 37-41, 67 and 75 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis *et al.* and in further view of Edens *et al.* (U.S. Patent No. 6,611,537); claims 17-19, 52 and 60-62 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis *et al.* and in further view of Cohen *et al.* (U.S. Patent No. 4,837,798); and claims 69 and 71-73 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis *et al.* and in further view of Lewis (U.S. Patent No. 5,835,126).

Applicant respectfully traverses each of the Section 103(a) rejections because the Office Action fails to present a combination of references that corresponds to the claimed invention. More specifically, the cited references fail to teach the telephony-related aspects of the claimed invention. In an effort to more explicitly recite these already implicit telephony-related aspects (*e.g., see*, Fig. 2, the embodiments discussed at pages 9 and 18 of the Specification and, for example, claims 22, 29, and 37-40), Applicant has amended each of the independent claims (1, 46, 55, and 65) to explicitly state that the appliances and communication devices are telephony-based, or provide bi-directional communication. As this subject matter was discussed and illustrated in the original application, the amendments do not introduce new matter.

The Office Action effectively acknowledges that the proposed modification of the signal distribution system of the Hamlin reference with the server teachings from the Ellis reference fails to correspond to these telephony-based aspects in the rejection of dependent claims 7, 22, 29, 31, 37-41, 67 and 75. The Office Action's reliance on the

ring-network teachings of Edens (to provide correspondence to the telephony-based aspects of the claims) is misplaced because Edens teaches away from the Hamlin reference. Edens is directed to a ring network whereas Hamlin is directed to distributing signals to receiving units (46 and 44), such as televisions and VCRs. For example, the Office Action asserts at page 26 that a skilled artisan would modify the Hamlin reference to “deliver caller ID information with the call in order to allow for easy viewing of caller identification” The suggestion that a skilled artisan would combine these teachings to provide caller ID information to the television receiving units 46 of Hamlin is illogical and untenable as such telephony information would not be useful or used at such non-telephony appliances. The Edens reference teaches away from the proposed modification of Hamlin and the Office Action provides no evidence of motivation to overcome such disparities. Therefore, the skilled artisan would not combine the cited references as asserted and the Office Action fails to present a combination of references that corresponds to the claimed invention. Applicant accordingly requests that the Section 103(a) rejections be withdrawn.

Moreover, Applicant respectfully traverses each of the Section 103(a) rejections because the Office Action fails to present any evidence of motivation from the cited references that a skilled artisan would make the asserted modifications. Obviousness cannot be established by combining teachings of the prior art to produce a claimed invention absent some teaching, suggestion, or incentive supporting the combination. *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987). The rejection is proper only when there is something in the prior art as a whole to suggest the desirability, and thus, the obviousness, of making the combination. *In re Rouffett*, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). The Office Action acknowledges at page three that Hamlin fails to teach a data memory circuit as claimed because Hamlin “does not teach that external services data can be stored in a data memory circuit.” In an attempt to overcome this deficiency, the Office Action proposes to “implement the ‘converter/system controller’ of Hamlin like the server taught by Ellis, in order to use a typical client-server architecture in the home” The Office Action provides no evidence from either of the cited references that a skilled artisan would modify the

Hamlin system controller in such a manner and instead relies upon an unsupported assertion. Without a presentation of evidence that would lead a skilled artisan to make the asserted modification, the Section 103(a) rejections are improper and should not be maintained. Applicant accordingly requests that each of the rejections be withdrawn.

In view of the above discussion, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

CRAWFORD MAUNU PLLC
1270 Northland Drive, Suite 390
St. Paul, MN 55120
651/686-6633

Dated: March 15, 2006

By: 

Robert J. Crawford
Reg. No. 32,122